

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

EMANUELA E. NEGRESCU,

*Plaintiff,*

V.

TRUSTEES OF TUFTS COLLEGE,

*Defendant.*

Civil Action No. 1:20-cv-10886-RWZ

## **JOINT MOTION TO STAY PROCEEDINGS PENDING MEDIATION**

The plaintiff, Emanuela Negrescu (“Plaintiff”), and the defendant, Trustees of Tufts College (“Defendant”), hereby jointly move this Court to stay all proceedings in this litigation pending the outcome of mediation. (Plaintiff and Defendant are referred to as the “Parties”). As grounds for this requested stay, the Parties state as follows:

1. In a good faith attempt to resolve this litigation, Plaintiff and Defendant, through their respective counsel, have worked diligently and cooperatively to move this case to mediation and request that the Court stay proceedings pending the outcome of mediation. Following mediation, the parties will notify the Court as to whether or not mediation has resolved the lawsuit. If mediation is unsuccessful, the Parties will request the Court to schedule a status conference, at which time the Parties will present to the Court a proposed scheduling order for the Parties to complete fact discovery and address subsequent phases of this litigation.

2. No party will be prejudiced by the grant of a stay.

3. The requested stay will avoid the need for the Parties to expend resources to address fact discovery disputes, related motions to compel, and the completion of additional fact discovery

at this time, and will allow the Parties to focus their attention and efforts to attempt to resolve the litigation at this juncture through private mediation and thereby conserve the time and resources of both Parties and this Court.

4. Counsel for the Parties have identified and agreed to a private mediator and are working cooperatively with the mediator, each other, and their respective clients to schedule the mediation. However, the mediation, which could reasonably take in excess of one full day, will not occur before the current fact discovery deadline (now set for February 15, 2022) or the upcoming status conference (now set for February 23, 2022). The mediation is likely to occur in late February or March, 2022.

5. In further support of this motion, the Parties provide this additional background:

- a. Plaintiff and Defendant have worked diligently on fact discovery in this matter.
- b. The Parties have propounded and responded to extensive discovery, including responses to interrogatories, Defendant's document production of over 8,800 pages of documents, Plaintiff's document production of over 1,200 pages of documents, and Defendant's responses to Plaintiff's extensive requests for admissions. Both Parties have noticed (but not yet taken) depositions. There are numerous potential discovery disputes, and the parties have agreed to set these aside, pending the outcome of mediation.
- c. Plaintiff, who was a student at Tufts University School of Dental Medicine ("TUSDM"), seeks discovery of information regarding patients and students at TUSDM, including information related to clinical procedures performed by TUSDM students on patients, disciplinary actions relating to TUSDM students, and reasonable accommodations relating to TUSDM students. As a result, discovery has included complex and involved issues, including patient information, as well as information subject to the protections of the Family Educational Rights and Privacy Act ("FERPA") (*see* 20 U.S.C. § 1232g *et al*).<sup>1</sup>
- d. The statutory overlay imposed by FERPA, and the nature of Plaintiff's claims and Defendant's defenses, combine to present complexities for discovery which involve additional time and resources and which counsel for the Parties have sought to address productively in a way to move this litigation to mediation.

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<sup>1</sup> In regard to the FERPA-related issues, before this Court is *Plaintiff's [Unopposed] Motion For An Order Requiring Defendant's Disclosure Of Educational Records In Accordance With The Protective Order Previously Approved By This Court*, filed on January 7, 2022. The allowance of this motion will facilitate the mediation of this matter.

WHEREFORE, the Parties jointly request that this Honorable Court to:

- (i) Grant this Joint Motion to Stay Proceedings Pending Mediation;
- (ii) Amend the Scheduling Order to postpone the current fact discovery deadline and currently scheduled status conference pending the outcome of mediation, with the Parties to inform the Court within two weeks following the conclusion of mediation and the parties' mutual agreement that mediation was unsuccessful as to whether or not mediation resolves the litigation; and
- (iii) Schedule a status conference upon notice from the Parties if mediation is unsuccessful, at which time the Parties will submit to the Court a proposed scheduling order with proposed dates to address the completion of fact discovery and subsequent phases of this litigation.

Respectfully submitted,

EMANUELA NEGRESCU

By her attorneys,

/s/ Todd J. Bennett

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Dated: January 20, 2022

Respectfully Submitted,

TRUSTEES OF TUFTS COLLEGE,

By its attorneys,

/s/ Miriam J. McKendall

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 20th day of January, 2022.

/s/ Miriam J. McKendall  
Miriam J. McKendall